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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,923

02/21/2006

John M Symington

RM.CH5

8399

81559

7590

11/19/2009

Rohm & Monsanto, PLC
12 Rathbone Place
Grosse Pointe, MI 48230

EXAMINER

PACKARD, BENJAMIN J

ART UNIT

PAPER NUMBER

1612

MAIL DATE

DELIVERY MODE

11/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10539923	2/21/2006	SYMINGTON ET AL.	RM.CH5

Rohm & Monsanto, PLC
12 Rathbone Place
Grosse Pointe, MI 48230

EXAMINER

Benjamin Packard

ART UNIT	PAPER
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1612	20091116
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DATE MAILED:

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Commissioner for Patents

The reply filed on 06/08/09 is again not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Applicant again has amended the claims to require the active step of application of the pharmacologically-active substance to the tooth, then applying a coating over the pharmacologically-active substance.

Note, the amended language is not read as an intended use, given the active step is required by the claims. Additionally, the formulation is not a product-by-process limitation, given the coating may be applied to the pharmacologically active substance in a location beside on the tooth. As such, Applicants again are merging product and method claim limitations into one claim, creating a non-statutory hybrid claim. While this would normally be objected to in prosecution, Applicants elected a single statutory class invention in the election in the response filed 04/28/08. Where the statutory class is outside the elected invention, the claim amendments are not entered and the response is again found non-responsive.

See 37 CFR 1.111. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Packard whose telephone number is 571-270-3440. The examiner can normally be reached on M-F 8-3:45 EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frederick Krass/
Supervisory Patent Examiner, Art Unit 1612

/Benjamin Packard/
Examiner, Art Unit 1612

PTO-90C (Rev.04-03)